



VIRGINIA  
& AMBINDER LLP  
A t t o r n e y s   a t   L a w

40 Broad Street, 7<sup>th</sup> Floor  
New York, New York 10004  
Telephone: 212.943.9080  
www.vandallp.com

**Kara S. Miller**  
kmiller@vandallp.com

January 26, 2017

**Via ECF**

Hon. Edgardo Ramos, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**Re: Gualpa v. M & G Tapas Rest. Corp. et al - 16-cv-08950**

Dear Judge Ramos:

Plaintiff submits this letter in opposition to the mediation adjournment requested by Defendants by letter dated January 25, 2017.

Defendants first tried to adjourn the mediation on December 7, 2016. (See email from Defendants' counsel Sophia Im attached hereto). After being informed by the mediation office that any adjournment would require an order from this Court, Defendants abandoned their adjournment request, and selected dates they were available, including January 30, 2017. *Id.* Mediation for January 30, 2017 was then formally scheduled by this Court via ECF on December 9, 2016. The Plaintiff is a low wage hourly worker and it is not easy for him to arrange a day off from work. For Defendants to wait until a few days before the mediation date to now request an adjournment evidences bad faith. If Defendants have any conflicts, they arose *after* the mediation was scheduled by this Court. Defendants should thus move the dates for their unnamed conflicts, not the mediation date.

Additionally, the request by Defendants that the mediation would be more productive after an exchange of initial discovery is surprising. This Court already ordered the parties to exchange the following documents no later than January 5, 2017:

“1. Both parties shall produce any existing documents that describe Plaintiffs duties and responsibilities. 2. Both parties shall produce any existing records of wages paid to and hours worked by the Plaintiff (e.g., payroll records, time sheets, work schedules, wage statements and wage notices). 3. Plaintiff shall produce a spreadsheet of alleged underpayments and other damages. 4. Defendants shall produce any existing documents describing compensation policies or practices. 5. If Defendants intend to



VIRGINIA  
& AMBINDER LLP

A t t o r n e y s   a t   L a w

assert an inability to pay then they shall produce proof of financial condition including tax records, business records, or other documents demonstrating their financial status.”

[Mediation Order, Docket No. 9.] Plaintiffs complied with this Court’s order, producing all responsive documents by the deadline. Defendants also finally produced payroll records for the Plaintiff on January 13, 2017. If Defendants have withheld any additional documents, they are in violation of this Court’s order.

If Defendants are making this request because they do not want to resolve this case in good faith, Plaintiffs would prefer to cancel the mediation entirely to avoid unnecessary costs and inconvenience to the Plaintiff.

Respectfully Submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Kara Miller, Esq

**Kara Miller**

---

**From:** Sophia Im <si@mkclawgroup.com>  
**Sent:** Thursday, December 08, 2016 9:18 AM  
**To:** Alan Gettner; Kara Miller  
**Cc:** Michael Chong  
**Subject:** Re: Gualpa v. El Porron / 1:16-cv-08950 [Request for Adjournment]

Dear Mr. Gettner / Ms. Miller:

As per the instructions in the latest correspondence from the mediation office, please kindly advise if any of the following dates work for you for a mediation.

- Monday, January 30, 2017
- Tuesday, January 31, 2017
- Thursday, February 2, 2017
- Friday, February 3, 2017

Thank you.

Sincerely,

Sophia Im



[mkclawgroup.com](http://mkclawgroup.com)

**MKC Law Group LLC**  
**Law Offices of Michael K. Chong, LLC**

***Fort Lee Office:***

2 Executive Drive, Suite 720, Fort Lee, New Jersey 07024

Ph: [\(201\) 947-5200](tel:(201)947-5200) Fx: [\(201\) 708-6676](tel:(201)708-6676)

***Hoboken Office:***

300 Hudson Street, Suite 10, Hoboken, New Jersey 07030

Ph: [\(201\) 203-7476](tel:(201)203-7476) Fx: [\(201\) 708-6676](tel:(201)708-6676)

***New York Office:***

1250 Broadway, 36th Fl., Suite 300, New York, New York 10001

Ph: [\(212\) 726-1104](tel:(212)726-1104) Fx: [\(212\) 726-3104](tel:(212)726-3104)

On Thu, Dec 8, 2016 at 8:55 AM, <[MediationOffice@nysd.uscourts.gov](mailto:MediationOffice@nysd.uscourts.gov)> wrote:

Good morning,

You can still schedule and calendar a mediation date for January or February.

If you are not for any reason prepared to go forward with the scheduled mediation when the time comes, you will need an extension from the Court.

You have until January 6 to select a date time and location for the docket. According to the built in deadlines you should mediate no later than February 6 if not in January.

Any questions , please contact us.

Maria  
Mediation Office  
United States District Court  
Southern District of New York  
40 Foley Square, Suite 120  
New York, New York 10007  
[\(212\) 805-0643](tel:(212)805-0643)  
Email: [mediationoffice@nysd.uscourts.gov](mailto:mediationoffice@nysd.uscourts.gov)  
[www.nysd.uscourts.gov/mediation](http://www.nysd.uscourts.gov/mediation)

From: Sophia Im <[si@mkclawgroup.com](mailto:si@mkclawgroup.com)>  
To: [MediationOffice@nysd.uscourts.gov](mailto:MediationOffice@nysd.uscourts.gov)  
Cc: Michael Chong <[mkchong@mkclawgroup.com](mailto:mkchong@mkclawgroup.com)>, [kmiller@vandallp.com](mailto:kmiller@vandallp.com), [agettner@verizon.net](mailto:agettner@verizon.net)  
Date: 12/07/2016 04:29 PM  
Subject: Gualpa v. El Porron / 1:16-cv-08950 [Request for Adjournment]

---

Dear Mediation Office,

This office represents Defendants in the above referenced matter.

As per the Order dated 12/07/2016, a Mediation Schedule is due by 01/07/2017, and we have been in touch with the assigned mediator, Mr. Gettner, to discuss as to same. However, Defendants have not filed an Answer, and Defendants believe a mediation will be more beneficial for the parties if it occurs after all parties have submitted their responsive pleadings and exchanged Rule 26 Initial Disclosures.

As such, Defendants request that the Mediation Schedule due date be adjourned until after the above has been completed to allow the parties a chance to review pertinent information and/or documents.

Thank you for your kind courtesies in addressing this matter.

Sincerely,

Sophia Im



[mkclawgroup.com](http://mkclawgroup.com)

**MKC Law Group LLC**  
**Law Offices of Michael K. Chong, LLC**

***Fort Lee Office:***

2 Executive Drive, Suite 720, Fort Lee, New Jersey 07024

Ph: [\(201\) 947-5200](tel:(201)947-5200) Fx: [\(201\) 708-6676](tel:(201)708-6676)

***Hoboken Office:***

300 Hudson Street, Suite 10, Hoboken, New Jersey 07030

Ph: [\(201\) 203-7476](tel:(201)203-7476) Fx: [\(201\) 708-6676](tel:(201)708-6676)

***New York Office:***

1250 Broadway, 36th Fl., Suite 300, New York, New York 10001

Ph: [\(212\) 726-1104](tel:(212)726-1104) Fx: [\(212\) 726-3104](tel:(212)726-3104)